

03-20-06

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

PUBLIC UTILITIES
COMMISSION

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FILED

--- In the Matter of ---

PUBLIC UTILITIES COMMISSION

Instituting a Proceeding to Investigate
Distributed Generation in Hawaii

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DOCKET NO. 03-0371

HREA RESPONSE TO HECO

MOTION FOR CLARIFICATION AND/OR PARTIAL
RECONSIDERATION OF DECISION AND ORDER NO. 2248

MEMORANDUM IN SUPPORT OF MOTION

AFFIDAVITS OF SCOTT SEU AND TIMOTHY HILL

AND

CERTIFICATE OF SERVICE

Warren S. Bollmeier II, President
HREA
46-040 Konane Place #3816
Kaneohe HI 96744

(808) 247-7753

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

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I. INTRODUCTION AND SUMMARY

On March 1, 2006, HECO submitted a "Motion for clarification and/or partial reconsideration of Decision and Order No. 2248, including a Memorandum in support of motion, and Affidavits of Scott Seu and Timothy Hill" (hereafter referred to as "HECO's Motion") to the Public Utilities Commission (PUC). The Hawaii Renewable Energy Alliance (HREA) hereby submits its response to HECO's Motion in accordance with the PUC's Order Number 22310, dated March 7, 2006.

HREA observes that much of HECO's Motion appears to be a re-statement of its arguments during the instant proceeding. HREA does not consider these re-stated arguments to be persuasive. In addition, a number of specific requests were made by HECO seeking clarification on the one hand of certain administrative matters, and on the other hand, approval to proceed with certain activities, such as installing a CHP unit on Lanai and pursuing PV DG projects. Given that both of these activities would be on the customer-side of the meter, we strongly object as we continuously did during the discovery and hearing phases of the instant document. Moreover, we do not believe the two proposals pass the muster established by the PUC in its Decision and Order (No. 22248), dated January 27, 2006. Finally, we believe HECO's Motion is in strict opposition to the spirit and intent of PUC's Decision and Order. Our detailed comments on HECO's motion follow in Section II.

II. DETAILED COMMENTS ON HECO's MOTION

HREA's detailed comments are organized and discussed below by section and page number in HECO's Memorandum in Support of Motion.

I. CLARIFICATION OF CONDITIONS APPLICABLE TO REGULATED UTILITY OWNERSHIP OF DG AT CUSTOMER SITES

We agree with HECO that the decision provides limited guidance on how the Commission intends to apply the three conditions for utility ownership of DG (page 2), but disagree with how HECO thinks they ought to be applied.

A. Legitimate System Need. On page 3, HECO spells out what it thinks the Commission means when it says "resolving a legitimate system need." HECO states that providing additional electrical generation capacity should qualify. We believe that the Commission means providing additional electrical generation capacity when and where it is needed on the system to meet system needs. Specifically, this is the primary role of a public utility. Providing energy services, including DG, for a specific customer on the customer-side of the meter is not. Provision of such services is the role of a private utility (reference HREA's Opening Brief, page 21).

HECO also states that increasing renewables to meet RPS is a "legitimate system need." We would agree in specific circumstances. Specifically, to meet its RPS, HECO might purchase wholesale renewable power or install and operate its own renewable capacity. If the renewable capacity is "firm," this would be similar to the utility's purchasing firm fossil generation or installation and operation of its own fossil generation to meet system needs, for example, to meet peak loads. However, we view purchase of as-available renewable power to meet RPS as a legal need, thus avoiding potential fines, not meeting a legitimate system need. Regarding customer-sited renewable DG, our current RPS law is not clear whether such systems are counted (or contribute) to RPS. While we believe they should, we continue to oppose installation and operation of utility-owned, renewable DG on customer-sites.

B. Least Cost Alternative to meet need. On page 4, HECO asks the Commission to clarify when it said "least cost alternative to meet the need", did it mean "lowest reasonable cost." We agree that clarification is needed, but question whether substituting "lowest reasonable cost" will meet the Commission's stated goal of ensuring that "distributed generation that is not cost-effective does not enter the system." On page 12 of the D&O, "Least cost" may be referring to other generation available to HECO, or it maybe referring to other alternatives available to the customer, for customer-sited DG. In addition, the Commission may mean to incorporate "least cost over the lifetime of the generation unit," as opposed to lowest cost of installation. That is, the Commission may want to favor a renewable unit that costs more up front to install, but will require lower fuel costs in the future. Clarification is needed, but we do not believe HECO's interpretation is not necessarily the right one.

C. Fair Opportunity for Non-Regulated DG Providers. On page 6, HECO provides an example where it might want to put a unit on a customer's site to provide peaking capacity for export to the system, while giving ancillary benefits to the customer. It asks the PUC to approve such a plan. Yet, as HECO repeatedly states (see footnotes 11 and 12 on page 17) that DG designed to export power to the system was deemed by the parties to be beyond the scope of this docket. If this type of transaction was beyond the scope of the proceedings, it is not proper to request approval of the transaction in a motion for reconsideration. Furthermore, we believe that such a system, if it were a CHP, should be viewed as a QF under PURPA, and this raises questions about self-dealing. Either way, as an alternative, HECO could lease or purchase a site for utility-owned DG that was designed to provide system supply from the customer. There may be a problem, however, with giving the customer "ancillary benefits" not available as a tariffed electrical service, such as free heat or special service considerations. We believe the Commission should not bind itself in its order on rehearing to buy a "pig in a poke," but should wait to rule on the transaction HECO is sketching out in its memorandum until HECO files a complete and substantiated application.

C. 2. Lanai. On pages 7 to 10, HECO asks the PUC not to apply the D&O to utility-owned DG on Lanai. It claims that the deal it struck there to displace a competitive third-party CHP provider is critical to MECO's recovery of fixed costs. In essence, what it is trying to do is to include economics within the "legitimate system need" criterion. Again, we believe this test should be applied to operational and service system needs, not cost recovery needs.

We see no reason why the Lanai situation should be grandfathered. Indeed, we think MECO should be looking for a renewable solution for its next unit on Lanai. As the Commission stated in its D&O 20811 in Docket No. 03-0261, at pages 4 to 5, Castle and Cook should not be penalized if they want to install "a non-CHP DG unit from another vendor," by having to give back any customer retention discount previously received. The Commission stated that it would not be in the public interest to assume the MECO would be the installer, and CHP would be the technology, of the next generation to go in on Lanai. Castle and Cook should be free to install a non-CHP DG unit from a third party. If more generation is needed on Lanai, MECO should proceed on Lanai in accordance with its IRP plan for the least cost unit, whether it is CHP or another type of unit.

C. 3. Application of Criteria. Referencing pages 10 to 11, HREA is not sure it is practical for the PUC to develop and maintain a list of DG providers as a method of making sure the customer is aware of its competitive alternatives. One affirmative step the Commission could take would be to declare that HECO cannot offer, as an inducement to the customer to choose the utility for CHP, a discount in the customer's electric rates and/or exemption from stand-by charges. In other words, if doing the deal as a utility, the utility must be bound by utility rules. Customers will then shop other DG providers to find a way to beat the costs the utility would charge, and the problem will take care of itself.

II. CLARIFICATION OF APPLICABILITY OF D&O 22248 TO RENEWABLE FORMS OF DG

A. Utility Ownership of PV on Customer Sites. On pages 11 to 13, HECO proposes to purchase PV from customers after an initial 5 year period of ownership. The justification for this business model appears to be as follows: (1) it will help increase the use of renewables and support RPS, (2) "PV developer-owners may be able to sell their existing systems and reinvest their capital in developing new PV systems at other sites", and (3) the "utility would not be in competition with PV developers, nor would its involvement create any entry barriers since the utility would be purchasing existing systems".

On the first point, we do not agree that this approach will encourage new development, or if it did, it would be five years downstream from the initial PV owner investment. It would make much more sense for the utility to offer DSM rebates to encourage the market NOW. These rebates, in turn, would leverage a greater amount of PV. We would also like to note again that customer-sited PV is currently not counted or credited towards our state RPS. Installation of more PV would nevertheless contribute to our over all goals to reduce our dependence on imported fossil energy, and that is a good thing.

On the second point, we believe it is more likely that PV owners, having fulfilled their energy needs, would likely re-invest their "PV sales monies" from HECO's investments in non-energy areas. That is, the purchase of the PV units five years down the road would not necessarily lead to the installation of more PV or other renewables. More importantly, we believe there are potentially serious side-effects or unintended consequences of utility-owned PV on customer sites. For example, the owner of a hotel or resort with utility-owned PV on their roofs may not be able to sell or have great difficulty in selling his hotel or resort, if he doesn't own the PV. In addition, what if a buyer should want the PV removed or a guarantee of protection from all liabilities associated with the PV system?

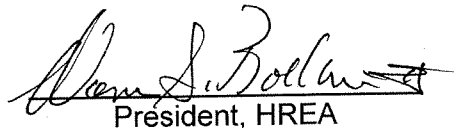
However, today the utility would be in competition the existing companies already seeking to lease PV systems to customers. Moreover, we re-iterate our objection to the installation and operation of utility-owned, renewable DG on customer-sites.

B. Applicability of Standby Rates to Renewable DG. On pages 14 to 15, HECO says that it will provide standby rate exemptions for smaller renewable systems or those that provide less than a certain amount of the customer's total load. We have three problems with the HECO interpretation. First, the HECO proposal makes no distinction between standby costs and stranded costs when it proposes to give special treatment for renewable energy systems. These two types of costs should be separately calculated and treated. Second, if the goal is to incent the installation of renewables, the standby charge should be waived for all renewable systems, and in particular for those which provide a greater portion of the customer's needs, not a smaller one. Third, if HECO is going to impose standby charges solely on fossil fuel-fired DG, it should design the standby charge so that only the costs attributable to that type of DG are included in the standby charge. That is, HECO should not be able to finance the purchase of renewable generation for its system by charging third party fossil-fired generators a higher-than-cost-based standby charge that is not imposed on its own, competing, fossil-fired central generation.

IV. COMMENTS REGARDING DG AND DG COMPETITION POLICIES

B.3. Balancing Interests. On page 27, we agree with HECO that the conditions in the D&O may prevent the utility from doing CHP on a programmatic basis.

DATED: March 20, 2006, Honolulu, Hawaii


President, HREA

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing Reply to HECO's Motion upon the following parties by causing a copy hereof to be hand-delivered or mailed, postage prepaid, and properly addressed the number of copies noted below to each such party:

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Party

LANI D. H. NAKAZAWA, ESQ.
Office of the County Attorney
County of Kauai
4444 Rice Street, Suite 220
Lihue, HI 96766

GLENN SATO, ENERGY
COORDINATOR
c/o Office of the County Attorney
County of Kauai
4444 Rice Street, Suite 220
Lihue, HI 96766

HENRY CURTIS
Life of the Land
76 North King Street, Suite 203
Honolulu, HI 96817

Party

2 copies RICK REED
Inter Island Solar Supply
761 Ahua Street
Honolulu, HI 96819

1 copy JOHN CROUCH
Box 38-4276
Waikoloa, HI 96738

3 copies

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Dated: March 20, 2006



President, HREA

